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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/834,833	04/13/2001	Ramaprakash H. Sathyanarayan	ORA010 US	4294

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EXAMINER

WOO, ISAAC M

ART UNIT PAPER NUMBER

2166

DATE MAILED: 11/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/834,833

Applicant(s)

SATHYANARAYAN,
RAMAPRAKASH H.

Examiner

Isaac M. Woo

Art Unit

2166

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 September 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,4-19,29-34,36,38,39,43 and 45-47 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 46 and 47 is/are allowed.
- 6) ☒ Claim(s) 1,4-10,12-19,29-34,36,38,39,43 and 45 is/are rejected.
- 7) ☒ Claim(s) 11 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

DETAILED ACTION

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on September 06, 2006 has been entered.
2. Claims 1, 4-5, 12, 14, 29, 32, 35, 43, 45 are amended. Claims 2-3, 20-28, 35, 37, 40-42 and 44 are canceled. Claims 1, 4-19, 29-34, 36, 38-39, 43 and 45-47 are pending.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claim 29 is rejected under 35 U.S.C. § 101 because the claimed invention is directed to non-statutory subject matter.

As set forth in MPEP 2106 (II) (A):

A. Identify and Understand Any Practical Application Asserted for the

Art Unit: 2166

Invention

The claimed invention as a whole must accomplish a practical application. That is, it must produce a "useful, concrete and tangible result." *State Street*, 149 F.3d at 1373, 47 USPQ2d at 1601-02. The purpose of this requirement is to limit patent protection to inventions that possess a certain level of "real world" value, as opposed to subject matter that represents nothing more than an idea or concept, or is simply a starting point for future investigation or research (*Brenner v. Manson*, 383 U.S. 519, 528-36, 148 USPQ 689, 693-96); *In re Ziegler*, 992, F.2d 1197, 1200-03, 26 USPQ2d 1600,1603-06 (Fed. Cir. 1993)). Accordingly, a complete disclosure should contain some indication of the practical application for the claimed invention, i.e., why the applicant believes the claimed invention is useful.

Apart from the utility requirement of 35 U.S.C. 101, usefulness under the patent eligibility standard requires significant functionality to be present to satisfy the useful result aspect of the practical application requirement. See *Arrhythmia*, 958 F.2d at 1057, 22 USPQ2d at 1036. Merely claiming nonfunctional descriptive material stored in a computer-readable medium does not make the invention eligible for patenting. For example, a claim directed to a word processing file stored on a disk may satisfy the utility requirement of 35 U.S.C. 101 since the information stored may have some "real world" value. However, the mere fact that the claim may satisfy the utility requirement of 35 U.S.C. 101 does not mean that a useful result is achieved under the practical application requirement. The claimed invention as a whole must produce a "useful, concrete and tangible" result to have a practical application.

Claim 29 is non-statutory. Because claims 1-2 include, "An apparatus", and "means for.....", which does not include *physical structure of the machine in terms of its hardware or hardware and software combination*. Therefore, claim 29 is software per se. Thus, the claim 29 is not a statutory and should be rejected under 35 U.S. C. § 101 as not being tangible.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1, 4-10, 12-19, 29-34, 36, 38-39, 43 and 45 are rejected under 35 U.S.C. 102(e) as being anticipated by Tzelnic et al (U.S. Patent No. 6,366,987, hereinafter, "Tzelnic").

With respect to claim 1, Tzelnic teaches a parent process checking if a first item in the plurality is a file or a directory (i.e., 151 in fig. 10, checking directory copying, col. 18, lines 13-65, col. 6, lines 28-44); the parent process conditionally copying the first item if the first item is found during the checking to be a file, and alternatively creating a

Art Unit: 2166

child process (i.e., concurrent copying process, col. 18, lines 13-65, col. 6, lines 28-44); wherein after creation, the child process performs the checking, the conditionally copying and the alternatively creating, with another item in the directory represented by the first item (col. 6, lines 28-44); and wherein the parent process performs the checking, the conditionally copying and alternatively creating, with a second item in the plurality (col. 6, lines 28-44).

With respect to claim 4, Tzelnic teaches comparing a current number of processes, created for copying, with a limited, waiting if the current number is greater than or equal to the limit (col. 1, lines 11-55).

With respect to claim 5, Tzelnic teaches parent process increasing a limit on a resource; and the child process using the resource at the increased limit during copying (col. 1, lines 11-55).

With respect to claims 6-8, Tzelnic teaches the resource is number of open file, file size, and memory (col. 2, lines 18-67).

With respect to claims 9-10, Tzelnic teaches the memory is organized as stack and a heap (col. 9, lines 60-67 to col. 10, lines 1-45).

With respect to claim 12, Tzelnic teaches the parent process checking if the first item is a link to itself, and performing the copying only if the first item is not a link to itself (col. 9, lines 60-67 to col. 10, lines 1-45).

With respect to claim 13, Tzelnic teaches the checking includes a string comparison operation (col. 9, lines 60-67 to col. 10, lines 1-45).

With respect to claim 14, Tzelnic teaches the parent process sending an email message if a resource at a destination is full; wherein the email message is sent to an email address of a user that started the method (col. 9, lines 60-67 to col. 10, lines 1-45).

With respect to claim 15, Tzelnic teaches waiting to be restarted subsequent to sending the email message (col. 9, lines 60-67 to col. 10, lines 1-45).

With respect to claim 16, Tzelnic teaches sending a signal to self to suspend execution (col. 9, lines 60-67 to col. 10, lines 1-45).

With respect to claim 17, Tzelnic teaches recopying said file from beginning, on being restarted (col. 9, lines 60-67 to col. 10, lines 1-45).

With respect to claim 18, Tzelnic teaches the email address is identified from a password file based on an identity of the user (col. 9, lines 60-67 to col. 10, lines 1-45).

With respect to claim 19, Tzelnic teaches the spawning is performed only if the directory is not a current directory and not a parent directory (col. 9, lines 60-67 to col. 10, lines 1-45).

With respect to c claim 29, Tzelnic checking if an item to be copied is a file or a directory (i.e., 151 in fig. 10, checking directory copying, col. 18, lines 13-65, col. 6, lines 28-44); and conditionally copying the item if the item is a file and alternatively creating a child process (i.e., concurrent processing of copying of directory, col. 18, lines 13-65, col. 6, lines 28-44); wherein the child process comprises a copy of the checking and the conditionally copying and alternatively creating (col. 18, lines 13-65, col. 6, lines 28-44); wherein each item is input to spawning and conditionally copying (col. 6, lines 28-44).

With respect to claim 30, Tzelnic teaches sending an email message if the means for conditionally copying encounters an error (col. 9, lines 60-67 to col. 10, lines 1-45).

With respect to claim 31, Tzelnic teaches increasing a limit on a resource to maximum (col. 9, lines 60-67 to col. 10, lines 1-45).

With respect to claim 32, Tzelnic teaches using a temporary buffer; and using direct memory access (DMA (col. 9, lines 60-67 to col. 10, lines 1-45).

With respect to claim 33, Tzelnic teaches checking if the item is a link to itself (col. 9, lines 60-67 to col. 10, lines 1-45).

With respect to claim 34, Tzelnic teaches for each item in the directory (col. 9, lines 60-67 to col. 10, lines 1-45).

With respect to claim 36, Tzelnic teaches the number of processes created corresponds to the number of directories to be copied (col. 9, lines 60-67 to col. 10, lines 1-45).

With respect to claim 38, Tzelnic teaches checking if the file is in a list of items to be excluded from copying; and performing the copying only if the file is not in the list. (col. 9, lines 60-67 to col. 10, lines 1-45).

With respect to claim 39, Tzelnic teaches the file is copied to multiple destinations if specified by the user (col. 9, lines 60-67 to col. 10, lines 1-45).

With respect to c claim 43, Tzelnic checking if an item to be copied is a file or a directory (i.e., 151 in fig. 10, checking directory copying, col. 18, lines 13-65, col. 6, lines 28-44); and conditionally copying the item if the item is a file and alternatively creating a child process (i.e., concurrent processing of copying of directory, col. 18, lines 13-65,

Art Unit: 2166

col. 6, lines 28-44); wherein the child process comprises a copy of the checking and the conditionally copying and alternatively creating (col. 18, lines 13-65, col. 6, lines 28-44); wherein each item is input to spawning and conditionally copying (col. 6, lines 28-44).

With respect to claim 45, Tzelnic teaches the new process; and on return from the function, the current process waits for all new processes to finish (col. 9, lines 60-67 to col. 10, lines 1-45).

Allowable Subject Matter

6. Claim 11 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

7. Claims 46-47 are allowed.

Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Isaac M. Woo whose telephone number is (571) 272-4043. The examiner can normally be reached on 8:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hosain T. Alam can be reached on (571) 272-3978. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Isaac Woo
October 30, 2006